



Article 1. DEFINITIONS

The following definitions apply to the Cloud Conditions and all accompanying Appendices:

1.1 Application(s): By means of the software modules made available by the Cloud Service, including the underlying databases and development platforms as well as the corresponding data collection(s) and accompanying documentation.

1.2 Availability: The period that Customer actually has the Application at their disposal by means of the Cloud Service.

1.3 Cloud Service: the Application(s) and/or Infrastructure and/or Platform Facilities made and kept available for Customer by Keenondots against payment.

1.4 User: a natural person authorized by Customer to use the Applications(s) and or Storage Capacity available via the Portal.

1.5 Tools: the resources that User needs to have installed on their computer in order to be able to use the Application.

1.6 Interface: a Tool being a communication link between the Cloud Service and systems within Customer's domain and that of Keenondots.

1.7 Portal: the internet site where Customer and User can use the Cloud Service and request changes.

1.8 Server: a computer or an associated group of computers and associated hardware ("cloud"), containing web server equipment, the Application(s), supporting software and/or database software, managed by or on behalf of Keenondots, which is accessible through the Internet.

1.9 Means of access: the means, such as a token or a combination of access code with a user name, with which the Portal, Server, the Application(s) and/or the Storage Capacity can be accessed.

1.10 Personal data: all data concerning a directly or indirectly identified or identifiable natural person, such as the user or employees of Customer, which are processed when using the Cloud Service.

1.11 SLA: the Service Level Agreement based on which the Cloud Service is rendered.

Article 2. ASSIGNMENT

2.1 An assignment is only established by signing and/or sending a written or electronic order confirmation.

2.2 The Customer orders Keenondots to provide the Cloud Service. This Cloud Service consists of:

- a. making the Application(s)/Infrastructure/Platform Facilities, set out in the offer and further described in the SLA, available to Customer;
- b. granting Customer the right to use the Application via the Portal in accordance with the stipulations of these Cloud Conditions;
- c. granting a right of use to the Interface;
- d. providing support to Users as further set out in the SLA; and
- e. Keenondots providing additional services to Customer upon request.

2.3 The functionality of the current version of the Application will be described in the user documentation, available on the Portal in electronic form.

Article 3. AVAILABILITY AND ADJUSTMENTS

3.1 Keenondots will make every effort to always have the Cloud Service that was agreed function properly and aim for the highest possible availability, quality and security of the Cloud Service. However, Keenondots does not provide any guarantee that the Cloud Service functions without faults, failures or interruptions.

3.2 Keenondots reserves the right to change the technical and functional features of the Cloud Service in the interim to improve functionality, to repair possible faults and to comply with the prevailing laws and regulations.

3.3 Keenondots makes every effort to detect and repair possible faults in the Cloud Service. However, Keenondots cannot guarantee that all faults will be repaired.

3.4 If an adjustment as referred to in paragraphs 2 and 3 leads to a material deviation in the Cloud Service's functionality, then Keenondots will inform Customer about that in writing or electronically two months prior to the adjustment becoming available.

3.5 Keenondots reserves the right to temporarily decommission the Cloud Service for, among others, maintenance, adjustments or improvements of Keenondots' computer systems. To the extent possible, Keenondots will decommission the Cloud Service outside of office hours and inform Customer in 8 hours advance of any scheduled decommissioning. Such announced decommissioning is never regarded as a shortcoming on the part of Keenondots in complying its commitments towards Customer.

Article 4. TOOLS

4.1 The Customer will make every effort to always ensure the availability of the Cloud Service Tools as well as their functioning necessary to access and use the Cloud Service, including the (peripheral) equipment and software, auxiliary applications, configuration and Internet connection, which meet the technical and functional requirements stipulated by Keenondots, that are to be used by Customer.

4.2 The Customer is responsible for ensuring the maintenance of a connection to the energy network and others connections necessary to access to and use the Cloud Service.

4.3 Additional (licensing) conditions (of third parties) could apply to the use of auxiliary applications. Keenondots does not guarantee the full functionality of the auxiliary applications used by Customer.

Article 5. ACCESS TO THE SERVICE

5.1 The Customer is responsible to ensure that all use, with or without its permission, of the Cloud Service and the Means of Access are made available to them. Keenondots is not liable for damage incurred by the Customer and/or Third parties stemming from unauthorized use of the Means of Access.

5.2 The Means of Access provided are not transferable, are strictly personal and exclusively for use within Customer's organization. The Customer will exercise the required care with respect to the use of the Means of Access and keep them secret from third parties.

5.3 Keenondots can always change the Means of Access at its own discretion and Keenondots will inform Customer about this in due time.

5.4 The Customer will immediately inform Keenondots of any unauthorized use of the Means of Access or when Customer reasonably suspects that this is the case.

5.5 The Customer can request Keenondots to block the Means of Access. Keenondots is also entitled after a written notice 7 days before to block the Means of Access at any time and at its own discretion if Kee-



nondots is aware of unauthorized use of the Means of Access. Keenondots is not liable for any damage incurred by Customer and/or by third parties as a result of blocking the Means of Access.

Article 6. USE OF THE CLOUD SERVICE

6.1 The Customer is responsible for ensuring that, when the Cloud Service is used, they and the User(s), to the extent relevant, observe the following rules:

- a. the Customer will ensure protection of its (peripheral) equipment, software, infrastructure and internet connection against viruses, computer criminality and (other) unlawful use by the User(s) or by third parties;
- b. when using the Cloud Service, Customer and/or the User will not distribute any (computer) viruses or other files that could damage (the proper functioning of) the Cloud Service;
- c. the Customer and/or the User will not perform (or have) any intentional actions (performed) that could cause failures in the Cloud Service, (computer) networks or infrastructures (of other users) or that could cause inconvenience, limited use or unforeseen use (for other users) in respect to the above;
- d. the Customer and/or the User will not abuse the Means of Access or break through the Cloud Service's security and/or attempt to do so;
- e. the Customer and/or the User will not perform or omit any actions of which they reasonably know or should reasonably have known that those could lead to punishable use of the Cloud Service or which could be unlawful towards Keenondots and/or third parties;
- f. the Customer and/or the User will not disclose or distribute any racist or discriminatory material and/or child pornography. Distribution is also understood to include placement on or distribution through the Cloud Service's infrastructure;
- g. the Customer and/or the User will not deliberately break into a computer system or a part thereof ("hacking") against the will of the owner or administrator and without permission.
- h. the Customer and/or the User will in no way breach the intellectual property rights of Keenondots and/or those of third parties; and
- i. the Customer and/or the User will not disclose, duplicate or otherwise use any information or data provided by Keenondots in the context of the Cloud Service, other than for use in Customer's internal business operations, without Keenondots' express prior written consent.

6.2 If Customer and/or the User(s) act(s) contrary to one or more of the rules mentioned above, then Customer is obligated to follow any reasonable instructions (or to have such done) given by Keenondots in that respect and to have the User(s) follow those too.

6.3 If data that are stored, prepared, processed or otherwise entered are unlawful towards third parties, then Keenondots is entitled, immediately and without prior notification, to remove the data from the Server and to destroy them. Already at this time, in case the above occurs, Customer grants Keenondots permission to remove all offending data from the Server and to destroy them. Keenondots will in no event be liable for any damage that results from these actions.

6.4 Keenondots can prevent Access to the Cloud Service of individual users by decommissioning the Means of Access or by suspending service delivery if they seriously suspect that it is used in breach of the stipulations of these Cloud Conditions. The obligation to pay remains in force during such decommissioning.

Article 7. THIRD PARTY APPLICATIONS

7.1 If and to the extent Keenondots, in the execution of the Cloud Service, makes available Applications or other software of third parties to Customer, then the conditions of the third parties are applicable, and the provisions between Keenondots and Customer are set aside to the extent they pertain to the Applications and/or other software. The Customer will accept the conditions of the third parties referred to, provided that Keenondots has informed Customer of the applicability of the conditions in writing or electronically.

7.2 The provisions between Keenondots and Customer with regard to the use of software will prevail if and to the extent the conditions of the third parties referred to are deemed not to be applicable or declared inapplicable.

7.3 Keenondots, with regard to the use and maintenance of the third party Application, can never be challenged in respect of anything more or other than what is applicable to the relationship between Keenondots and the relevant supplier of that Application.

Article 8. FEES AND PAYMENT

8.1 The fees payable for the Cloud Service are included in the offer. For the determination of the amount of the monthly fee, the data and the quantities on the first day of the calendar month for which the monthly fees are determined are applicable. The implementation fee will be invoiced at the kick off date of the project.

8.2 The fees stipulated in the offer and otherwise discussed by Parties in the course of the Cloud Service are expressed in Euro and exclude the due and payable Value Added Tax (VAT) and other levies imposed by the government.

8.3 Keenondots is entitled to periodically amend the fees, which includes the right to change the prices and fees 1 time per contract year. Keenondots will inform Customer of fee changes at least two calendar months in advance, Customer has the right to terminate the Cloud Service with Keenondots due to the price increase with one month notice.

8.4 Keenondots will retrospectively bill Customer the agreed fees on a monthly basis. The final payment date of a bill is 30 days after the invoice date. The legal interest as well as compensation for the extra-judicial costs incurred by Keenondots with regard to the collection of the bill concerned are due and payable after the expiry of the payment date.

Article 9. SUSPENSION

Keenondots is entitled to entirely or partially block the access to the Cloud Service fourteen (14) days after any advanced written notification or proof of default, if Customer fails to comply with any obligation under these Cloud Conditions **Article 10. INTELLECTUAL PROPERTY RIGHTS**

10.1 All intellectual property rights to all the Applications, Interfaces, other software, documentation and other materials to which any form of intellectual property right is attached rest exclusively upon Keenondots or its licensors.

10.2 The Customer only obtains the non-exclusive rights of use and competencies as expressly granted in these Cloud Conditions or otherwise in writing. The Customer will not otherwise duplicate or disclose any of the Applications, Interfaces, other software, documentation and other materials developed or made available in the context of the Cloud Service. The Customer is not permitted to remove or change any designation of copyrights, brands, trade marks or other intellectual property rights to the Applications, Interfaces, other software, documentation and other materials developed or made available in the context of the Cloud Service, including designations regarding the confidential nature and duty to observe confidentiality of the materials.



10.3 Keenondots is allowed to take technical measures in order to protect the Applications, Interfaces, other software, documentation and other materials developed or made available in the context of the Cloud Service, provided that these measures do not negatively impact the functionality. If the Applications, Interfaces, other software, documentation and other materials developed or made available in the context of the Cloud Service have been protected by means of technical safety measures, then Customer is not allowed to remove or evade these.

10.4 Each use, multiplication or disclosure by Customer through technical safety measures that falls outside the scope of the Cloud Conditions or the granted rights of use, constitutes an infringement of Keenondots' intellectual property. The Customer will pay an immediately due and payable fine of € 10,000 (ten thousand Euro) per infringement to Keenondots without prejudice to Keenondots' other rights, including the right to compensation and compliance.

10.5 The Customer is not allowed to independently repair faults in the Cloud Service's software or have those repaired, make changes therein, link them to other equipment and software, independently expand their functionality, change parameters and/or remove the safety measures.

Article 11. INTERFACE USE

11.1 Keenondots hereby and for the duration of the Cloud Service grants Customer a non-exclusive and limitedly transferable right to use the Interface under the following conditions when using the Cloud Service. The Customer hereby accepts this right.

11.2 The right of use includes all actions with regard to the Interface that are reasonably necessary in the context of the Customer and Users using the Cloud Service.

11.3 The Customer is permitted to make additional copies of the Interface if and to the extent technically necessary and/or in accordance with the permitted uses.

Article 12. CONFIDENTIALITY

12.1 The Customer and Keenondots will ensure that all data received from the other Party, which is known to be or could reasonably be expected to be confidential, will remain secret. The Party that receives confidential information will only use this for the purpose which it has been provided for. Data will in any event be regarded as confidential indicated to be so by one of the Parties.

12.2 The duty to observe confidentiality mentioned above does not apply when the confidential information:

- a. is general knowledge, without this being caused by a violation of this duty to observe confidentiality;
- b. was independently developed by the other Party without using this information;
- c. was lawfully obtained from a third party and when the latter is not bound by a similar duty to observe confidentiality; or
- d. is to be disclosed based on laws or regulations, a Court Order or an Order by a Regulatory Authority.

12.3 Parties undertake to use the information referred to in paragraph 1 only for the execution of these Cloud Conditions.

12.4 Parties undertake to impose the same obligations as included above on the persons engaged by them in the execution of the Cloud Conditions.

12.5 The above mentioned duty to observe confidentiality remains in force for the duration of the Cloud Conditions and up to 10 years after their termination.

12.6 With each infringement of the duty to observe confidentiality included in this Article, the infringing Party forfeits an immediately due and payable fine of € 50,000 (fifty thousand Euro) per infringement, without prejudice to the other Party's right to have the damage caused by the infringement compensated and without prejudice to the other rights the Party has with regard to the infringement.

Article 13. DATA

13.1 The Customer remains the right holder with regard to the data that are stored, edited, processed or otherwise entered into with the aid of the Cloud Service.

13.2 The Customer and its Users themselves decide which data are stored, edited, processed or otherwise entered with the aid of the Cloud Service. Keenondots has no knowledge of these data. The Customer therefore remains responsible for the data entered by them. Keenondots is therefore not liable for any damage that results from the data entered by Customer. The Customer indemnifies Keenondots against any claim for compensation that third parties would be able to recover from Keenondots in any way, to the extent such a claim is based on the use of the Cloud Service by Customer.

13.3 Keenondots is not responsible for ensuring checking the correctness and completeness of the data provided, and is therefore not liable for the consequences of the use of any incorrect and/or incomplete data provided by Customer.

Article 14. PROCESSING OF PERSONAL DATA

14.1 Parties, to the extent relevant in the context of the Cloud Conditions, take care of the lawful processing of personal data in accordance with the relevant laws and regulations with regard to the protection of personal privacy, especially the Dutch Personal Data Protection Act (wet bescherming persoonsgegevens). Parties guarantee that personal data will only be entered into Keenondots' systems in an entirely lawful way. The Parties indemnify each other against all claims from third parties as a result of the Customer infringing the laws and regulations referred to above.

14.2 If Customer enters, stores or otherwise processes personal data when using the Cloud Service in accordance with the terminology of the Dutch Personal Data Protection Act (wet bescherming persoonsgegevens), the latter is the "Party Responsible" and Keenondots is the "Processor" within the meaning of the Dutch Personal Data Protection Act.

14.3 Keenondots is responsible to ensure an appropriate security level in view of the risks that arise from the processing operation(s) and the nature of the personal data to be protected. Keenondots also guarantees that everyone who acts under Keenondots' authority, to the extent they have access to the personal data for which Customer is the Party Responsible, only carries out processing operations at the Customer's instructions and for the purpose specified by the latter.

14.4 The technical and organizational security measures to be taken by Keenondots will always comply with generally accepted and applicable security measures such as the Code of Practice for Information Security Management. The Customer will regularly assess the measures and check their compliance.

14.5 At all times, Keenondots is to report any security incidents to Customer within 24 hours. In the report, Keenondots indicates the incident that occurred, what possible consequences the incident has had for the (access to the) personal data and the measures taken or to be taken to terminate the incident and to prevent such from happening in the future. Keenondots will report an incident immediately upon discovery in case the incident possibly affects the privacy of any Party(ies) involved.

14.6 Keenondots will refrain from directly or indirectly processing personal data in countries outside of the European Economic Area. Keenondots must obtain Customer's prior consent when it intends to directly or indirectly process personal data outside of the European Union. The Customer will not refuse this consent without reasonable grounds.

14.7 Keenondots will fully cooperate with Customer in order to (i) have any Party(ies) involved gain access to their personal data within the meaning of the Dutch Personal Data Protection Act; (ii) remove or correct personal data or mark them as incorrect; (iii) demonstrate that the personal data have been removed, corrected or marked as incorrect when they are indeed incorrect; and/or (iv), record the fact that the Party(ies) involved consider their personal data to be incorrect in case Customer disagrees. Keenondots will separately bill Customer for the costs of the work.

14.8 The Customer is entitled, at his own expense, to have compliance with the stipulations of this Article checked by an independent third party.

14.9 Keenondots will not store the personal data any longer than necessary for the execution of the Cloud Conditions, after which Keenondots will permanently remove them without informing the Customer. The Customer will inform Keenondots on the applicable storage periods.

Article 15. LIABILITY AND INDEMNIFICATION

15.1 Keenondots' total liability towards Customer due to an attributable breach in complying with these Cloud Conditions, or for any other reason, is limited to compensation for direct damages up to a maximum of the amount of fees (excluding VAT) that Customer has paid in the twelve months preceding the event giving rise to the damage based on these Cloud Conditions with a maximum of € 100,000 for the duration of the Cloud Service/per event. This limitation of liability will apply mutatis mutandis to Keenondots indemnification obligation.

15.2 Keenondots' liability for indirect damages, including loss of profit, lost savings, diminished goodwill, damage due to business interruption as well as damage due to claims of Customer's clients is excluded. Keenondots' liability due to mutilation, destruction or loss of files, data, documents or other data carriers of Customer is also excluded.

15.3 The exclusions and limitations with regard to Keenondots liability do not apply if the damage is caused by deliberate intent or gross negligence on the part of Keenondots' operational management or in case Keenondots acting or his omission leads to a violation of the "Wet bescherming persoonsgegevens".

15.4 Unless compliance by Keenondots is permanently impossible, Keenondots' liability due to an attributable breach in complying with the Cloud Conditions only arises if Customer serves Keenondots with a written notice of default, in which a reasonable period is set for curing the breach, and Keenondots remains attributable in breach of meeting its obligation after this period. The notice of default must contain a complete and detailed description of the alleged breach, so Keenondots actually has the opportunity to adequately respond to the notice of default.

15.5 The condition for the arising of any right to compensation is that Customer, at all times, reports the damage to Keenondots in writing as soon as possible after it has occurred. A claim for compensation against Keenondots expires by the mere lapse of 24 months after the claim arises.

Article 16. FORCE MAJEURE

16.1 None of the Parties is obligated to fulfil any obligation, including a warranty obligation agreed between the Parties, in case a Party is pre-

vented from doing so due to a Force Majeure. Force Majeure is understood to include Force Majeure affecting Keenondots' suppliers, failure to properly comply with obligations of suppliers which are set out by Customer, government measures, outages of power, the Internet, computer network or telecommunication facilities, (civil) war, sit-ins, , general transportation problems and terrorism.

16.2 Each Party will be entitled to terminate the Cloud Service when circumstances of Force Majeure last over 90 days. In that case, the services that have already been rendered based on the Cloud Conditions will be settled proportionally without either Party owning the other anything else.

Article 17. TERMINATION

17.1 The Cloud Service is repeatedly tacitly extended for a period of one month, unless the Customer or Keenondots terminates the Cloud Service by means of registered mail with due regard to a notice period of one month prior to the end of the period concerned.

17.2 Each Party will be entitled to termination due to an attributable breach in fulfilling the Cloud Conditions when the other Party is attributable in breach of fulfilling their essential obligations under the Cloud Conditions. Dissolution is only possible after a written, complete and detailed notice of default has been served in which a reasonable period is set for curing the breach. Any payment obligation of Customer and any other of the latter's obligations to cooperate or those of a party to be engaged by Customer will always be essential obligations under these Cloud Conditions.

17.3 The services that have already been rendered for the execution of the Cloud service, at the time of a dissolution as referred to above, will not be subject to reversal unless Customer can prove that Keenondots is in default with respect to rendering a substantial part of the services. In that case, the value of the services that have already been rendered to Customer by Keenondots (unless evidence to the contrary is provided) will be determined as being equal to the fees already paid. Amounts that Keenondots had already billed prior to the dissolution with respect to the execution of Cloud Services that Keenondots had already properly provided or rendered in that regard, remain due and payable notwithstanding due consideration to the stipulations of the preceding full sentence and become immediately due and payable at the time of dissolution.

17.4 Each of the Parties can terminate the Cloud Service entirely or partially, immediately and without serving a written notice of default if the other Party - be it provisionally or not - is granted suspension of payments, if a petition for bankruptcy is filed against the other Party, or if the latter's company is liquidated or terminated for reasons other than a company restructuring. In case of such termination, Keenondots is not responsible for ensuring any repayments of funds already received or for compensating damages. The right to use the Cloud Service and the Internet lapses in case Customer is declared bankrupt.

Article 18. CONSEQUENCES OF TERMINATION

18.1 In case the Cloud Service is terminated, then the Parties will continue to cooperate in good faith in a possible case that Customer needs support with the remigration of the data entered when using the Cloud Service and when transferring these to the Customer or to third parties to be designated by Customer during this "remigration period". The continuity of the availability of the data and the services are key factors here. Parties will consult about the extent of the effort expected from Keenondots. Keenondots will be allowed to charge Customer the costs incurred by them with regard to the remigration of the services based on retrospective pricing.

18.2 The Customer, after the termination, may request a once-off provision of the data entered when using the Cloud Service. Keenondots will make the data available to Customer in a customary format, so the



data can be reasonably processed by Customer. There is no (statutory) storage period attached to Keenondots for the data entered by Customer, other than what is expressly referred to in Article 14. If Customer did not indicate that it requires the transfer of the data as set out above immediately after the termination of the Cloud Service, then Keenondots is entitled to immediately remove the data that are stored, prepared, processed or otherwise entered by means of using the Cloud Service, and to remove them from the Server and destroy them without prior notification.

Article 19. DISPUTES AND APPLICABLE LAW

19.1 The Dutch law applies to the legal relationship between Keenondots and Customer.

19.2 Any disputes between the Parties are to be submitted to a Competent Court in the Zeeland-West-Brabant judicial district. Parties can jointly choose to resolve a dispute by means of arbitration or mediation.

Article 20. OTHER PROVISIONS

20.1 The validity of the entire Cloud Conditions will not be affected when any stipulation of these Cloud Conditions seems to be invalid. In that case, the Parties will replace it with (a) new stipulation(s), where, as much as legally possible, the meaning of the original Cloud Condition(s) must be followed.

20.2 If Keenondots, based on a request or an authorized order by a government agency or in respect of a legal obligation, has to perform any operations with regard to the data of Customer, its employees or Users, then any associated costs will be charged to Customer, unless the cause of this investigation lies with Keenondots. To the extent possible, Keenondots will inform Customer about this beforehand.

20.3 The version of any communication received or stored by Keenondots is considered authentic (including log files), except for contrary evidence to be provided by Customer.

20.4 Parties will always inform each other in advance by e-mail of any changes in name, postal address, e-mail address, telephone number and, if requested, bank account details.

20.5 Parties are not entitled to transfer the rights and obligations from these Cloud Conditions to a third party without the written consent of the other Party. The other Party will not refuse this consent without reasonable grounds; however, the other Party is entitled to attach reasonable terms and conditions to granting this consent.